

IN RE GENETICALLY MODIFIED RICE LITIGATION))))))	4:06 MD 1811 CDP ALL CASES
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COMES NOW Don Downing and Grant L. Davis, Counsel for Plaintiffs, and Eric Olson, Counsel for Defendants and pursuant to Case Management Order No. 19 [#1558], #3, Joint Report regarding jury selection:

- Plaintiffs' position is that six jurors and two alternates is sufficient for the expected length of trial. Given the need for a unanimous jury it is inappropriate to needlessly increase the size of the jury. Alternatively, Plaintiffs would agree to a six member jury and four alternates if the parties agree that all remaining alternates are dismissed at the end of the trial before deliberation, leave a six person jury panel to deliberate. Plaintiffs understand the Court would have to consent to this type of agreement.

In support of their request for 10 jurors, Defendants state as follows: It is even more important than in a typical stand alone case that this trial be completed, as a number of additional trial schedules may be disrupted if this trial must be reset due to an insufficient number of jurors able to complete their service. Two factors in particular suggest that more, rather than fewer, jurors should be selected for this case. First, as the Court mentioned, in this economy, a number of jurors may be unemployed and unable to complete their service if they obtain employment. Second, this trial occurs during flu season with the added complications posed by H1N1 and thus the Defendants believe there is an increased risk that some jurors may not complete their service due to illness.

4. Plaintiffs and Defendants jointly and respectfully request that opening statements proceed on Tuesday morning as opposed to late Monday afternoon.

With the venire panel size of forty (40), the parties would reasonably expect that the questioning by the Court and parties will take somewhat longer than normal. Because of the need for technology set up, demonstrative evidence and other logistical issues, both parties would like the certainty of knowing when opening statements would start. Neither party wants to keep the jury waiting Monday afternoon while the set up for opening is occurring. Neither party wants Plaintiffs to proceed with opening on Monday and Defendants to proceed on Tuesday morning.

For the sake of efficiency and certainty, all parties respectfully request that opening statements proceed on Tuesday morning.

5. Plaintiffs and Defendants have agreed on a jury questionnaire which is submitted as Exhibit A.

Respectfully submitted,

/s/ Don M. Downing

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Don M. Downing